

RAJASTHAN HIGH COURT

Jitendra Pal Kaur

Vs.

State of Rajasthan

Civil Writ Petn. No. 3426 of 2000

(B.J. Shethna, J.)

27.11.2000

ORDER

B.J. Shethna, J.

1. It is not only most unfortunate but a pitiable thing when none else but learned counsel Mr. V.K. Vyas appearing for the respondent No. 1 -- State of Rajasthan and respondent No. 3 -- Convener, Central UG Admission, Board and Principal and Controller, S.M.S. Medical College and Hospital, Jaipur contended this Court in this petition that the University of Rajasthan is not a party, therefore, the petition should be dismissed.
2. It was also contended by Mr. Vyas that the process of giving admission is already over, therefore, the writ become in fructuous and no such relief can be granted as prayed for in the petition.
3. What relief is claimed in this petition by the petitioner? The petitioner has prayed that the respondents be directed to declare the result of PMT/PVT after giving 3% reservation to disabled persons according to the Government's own decision dated 24-5-2000 and that the petitioner be given admission in PMT/PVT Academic Year 2000.
4. This petition is filed by a girl Jitendra Pal Kaur who is a disabled person but the plea is taken by the State Government as if the State Government itself is a disabled person.
5. I am at pains to observe that nowadays number of petitions of such type are filed before this Court seeking direction from this Court directing the subordinate officers

of the State Government to implement the decisions of the State Government. This happens only when the State Government is weak otherwise such petitions would not come before this Court.

6. For the sake of issuing the notification making 3% reservation to disabled persons, if notification was issued and not to get it implemented in its letter and spirit, then it is most unfortunate. It was expected from the State government to see to it that not only this type of notification making 3% reservation to disabled persons should be implemented forthwith by one and all including the University of Rajasthan but also all its decision should also be implemented by its officers in its letter and spirit.

7. The respondent No. 2 Controller, PMT/PVT Examination, Jai Narain Vyas University, Jodhpur has not only supported the petition by filing the reply but from the correspondence/Annexures with the reply shows that he was asking the University to implement the resolution of the State Government but it seems that it has fallen on the deaf ears of the University. For not implementing its decisions/notifications, the State Government should have immediately taken action against such erring Universities.

8. The petitioner is a handicapped girl aged only 18 years. After passing her Senior Higher Secondary examination, she applied for PMT/PVT Test, 2000 conducted by the respondent No. 2. the admission card at Annex. 1 was issued to her.

9. In a cabinet meeting held on 24-5-2000, the State Government took a decision to provide 3% reservation to disabled persons from the current Academic year in Government Medical and Engineering Colleges for disabled candidates.

10. In the written examination, the petitioner secured 742 out of 1200 marks (Annex.5). The result of Pre test PMT/PVT Session 2000 was declared on 23-7-2000. The result shows that she was in at S. No. 2 of the waiting list for disabled candidates ignoring the decision dated 24-5-2000 providing 3% reservation to disabled persons, as only two seats for disabled persons was filled up instead of providing 3% reservation to disabled persons according to the Government's own decision dated 24-5-2000. Hence, this petition.

11. From the averments made in the petition, it appears that as per the latest decision of the State Government dated 24-5-2000 providing 3% reservation to disabled persons in Medical and Engineering Colleges starting from Academic Session of this year 2000, there were in all 600 seats provided for PMT and PVT which means that

18 seats were to be kept for disabled persons. Unfortunately, though the result was declared on 23-7-2000, only 2 seats were kept for disabled persons and not 18 seats as per the decision dated 24-5-2000 providing 3% reservation to disabled persons, therefore, the petitioner was kept at No. 2 in the waiting list. Notification dated 30-8-2000 (Annex. 7) is to that effect.

12. From the reply affidavit filed by the respondent No. 2, it is clear that Medical and Health Department of the State instructed all the Universities of State for implementing the decision dated 24-5-2000 providing 3% reservation to disabled persons.

13. It is really pitiable that the plea was taken to implead the University of Rajasthan as party by the respondents in this petition. What is prayed by the petitioner is that the State Government should be directed to implement its decision dated 24-5-2000 in its letter and spirit by directing the concerned University. It does not lie good in the mouth of the respondents including the State Government to plead helplessness and implementing its decision under the guise that the University of Rajasthan is not a party to this petition.

14. When the Government takes a policy decision regarding reservation and that too particularly for disabled persons in the Academic field, then it should not remain on paper only. The Government after taking such decisions must see to it that its decisions are implemented forthwith in its true letter and spirit by one and all including the Universities.

15. It was stated at the Bar that even today there are as many as 34 vacancies in Bikaner Division for Medical Colleges, therefore, there should not be any difficulty on the part of the respondents from giving admission to the petitioner in Medical College because as per the reservation policy, there will be 18 seats available for disabled persons and admittedly, the petitioner was second in the waiting list.

16. The contention of Mr. Vyas for the respondents Nos. 1 and 3 that the result was already declared and admission process was over long back, therefore, such a relief cannot be granted, is of no substance. For their own wrong, they cannot be allowed to take such a plea that the admissions were already over. Presently there are 34 seats vacant, therefore, there is no difficulty in directing the respondents to admit her. Even

if there was no vacancy, then also this Court would have interfered in such cases and directed the State Government to implement its notification by giving her admission in the concerned University by creating one supernumerary post. However, that is not the situation here.

17. In view of the above discussion, this petition is allowed, the respondent State Government is directed to implement its decision dated 24-5-2000 providing 3% reservation to disabled persons in PMT/PVT in Academic Session 2000 and direct all the Universities of the State including the University of Rajasthan to immediately amend its Ordinance to this effect and provide 3% reservation to disabled persons and further the respondents are directed to give admission to the petitioner in M.B.B.S. course for the Academic Session, 2000 at Bikaner Division where number of posts are lying vacant.

18. This order is pronounced in open Court in presence of learned counsel for the respondents, therefore, it is expected from the respondents to comply with this order as early as possible and not later than by 11-12-2000.

19. A copy of this order be given to the learned counsel for the parties forthwith.

Petition allowed.

Cases Referred.

1. Civil Writ Petn. No. 3426 of 2000